BILL NO. S-81-10-41

SPECIAL ORDINANCE NO. S-242-81

AN ORDINANCE approving an Agreement between the City of Fort Wayne, Indiana, and Moake Sheldon Kratzat & Associates, Inc., Architect for renovation and addition to Sewer Maintenance Facility.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That an Agreement dated October 14, 1981, between the City of Fort Wayne, Indiana, by and through its Mayor and Board of Public Works and Moake Sheldon Kratzat & Associates, Inc., for:

> Architectural services for the renovation and addition to the existing Sewer Maintenance Facility located at 445 East Wallace Street, Fort Wayne, Indiana,

in the amount of $12,020.00, all as more particularly set forth in said agreement which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof, is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Paul M. Burns
COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY OCTOBER 23, 1981.

BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ___M.,E.S.T.

DATE: 10-27-81

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9	0			
BURNS	X				
EISBART	X				
GiaQUINTA	X				
NUCKOLS	X				
SCHMIDT, D.	X				
SCHMIDT, V.	X				
SCHOMBURG	X				
STIER	X				
TALARICO	X				

DATE: 11-10-81

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ (GENERAL) ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ No. G-82-81 on the 10th day of November, 19 81.

ATTEST:

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL)

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of November, 19 81, at the hour of 10:00 o'clock A M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 17th day of November 19 81, at the hour of 1:00 o'clock P M.,E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S81-10-41

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving an Agreement between the City of Fort Wayne, Indiana, and Moake Sheldon Kratzat & Associates, Inc., Architect for renovation and addition to Sewer Maintenance Facility

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ~~ORDINANCE~~ RESOLUTION PASS.

PAUL M. BURNS, CHAIRMAN

VIVIAN G. SCHMIDT, VICE CHAIRMAN

BEN A. EISBART

SAMUEL J. TALARICO

ROY J. SCHOMBURG

CONCURRED IN
DATE 11-10-81 CHARLES W. WESTERMAN, CITY CLERK

71-94-25 H.I.
10/14/81

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document B141

Standard Form of Agreement Between Owner and Architect

1977 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION

AGREEMENT

made as of the 14th day of October in the year of Nineteen Hundred and Eighty-One (1981)

BETWEEN the Owner: Board of Public Works
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, Indiana 46802

and the Architect: Moake Sheldon Kratzat & Associates, Inc.
2214 Inwood Drive
Fort Wayne, Indiana 46815

For the following Project:
(Include detailed description of Project location and scope.)

Renovation and addition to the existing Sewer Maintenance Facility located at 445 East Wallace Street, Fort Wayne, Indiana, in accordance with approved design dated April 28, 1981.

The Owner and the Architect agree as set forth below.

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ARTICLE 1

ARCHITECT'S SERVICES AND RESPONSIBILITIES

BASIC SERVICES

The Architect's Basic Services consist of the five phases described in Paragraphs 1.1 through 1.5 and include normal structural, mechanical and electrical engineering services and any other services included in Article 15 as part of Basic Services.

1.1 SCHEMATIC DESIGN PHASE

1.1.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall review the understanding of such requirements with the Owner.

1.1.2 The Architect shall provide a preliminary evaluation of the program and the Project budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 3.2.1.

1.1.3 The Architect shall review with the Owner alternative approaches to design and construction of the Project.

1.1.4 Based on the mutually agreed upon program and Project budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

1.1.5 The Architect shall submit to the Owner a Statement of Probable Construction Cost based on current area, volume or other unit costs.

1.2 DESIGN DEVELOPMENT PHASE

1.2.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program or Project budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

1.2.2 The Architect shall submit to the Owner a further Statement of Probable Construction Cost.

1.3 CONSTRUCTION DOCUMENTS PHASE

1.3.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Project budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

1.3.2 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and the Contractor.

1.3.3 The Architect shall advise the Owner of any adjustments to previous Statements of Probable Construction Cost indicated by changes in requirements or general market conditions.

1.3.4 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

1.4 BIDDING OR NEGOTIATION PHASE

1.4.1 The Architect, following the Owner's approval of the Construction Documents and of the latest Statement of Probable Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals, and assist in awarding and preparing contracts for construction.

1.5 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.5.1 The Construction Phase will commence with the award of the Contract for Construction and, together with the Architect's obligation to provide Basic Services under this Agreement, will terminate when final payment to the Contractor is due, or in the absence of a final Certificate for Payment or of such due date, sixty days after the Date of Substantial Completion of the Work, whichever occurs first.

1.5.2 Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

1.5.3 The Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions to the Contractor shall be forwarded through the Architect. The Architect shall have authority to act on behalf of the Owner only to the extent provided in the Contract Documents unless otherwise modified by written instrument in accordance with Subparagraph 1.5.16.

1.5.4 The Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Architect in writing to become generally familiar with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of such on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.

1.5.5 The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Sub-

contractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

1.5.6 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.5.7 The Architect shall determine the amounts owing to the Contractor based on observations at the site and on evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment in such amounts, as provided in the Contract Documents.

1.5.8 The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Owner, based on the Architect's observations at the site as provided in Subparagraph 1.5.4 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

1.5.9 The Architect shall be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by both the Owner and Contractor. The Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Contractor, and shall render written decisions, within a reasonable time, on all claims, disputes and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

1.5.10 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form. In the capacity of interpreter and judge, the Architect shall endeavor to secure faithful performance by both the Owner and the Contractor, shall not show partiality to either, and shall not be liable for the result of any interpretation or decision rendered in good faith in such capacity.

1.5.11 The Architect's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents. The Architect's decisions on any other claims, disputes or other matters, including those in question between the Owner and the Contractor, shall be subject to arbitration as provided in this Agreement and in the Contract Documents.

1.5.12 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in the Architect's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed or completed.

1.5.13 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

1.5.14 The Architect shall prepare Change Orders for the Owner's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

1.5.15 The Architect shall conduct inspections to determine the Dates of Substantial Completion and final completion, shall receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment.

1.5.16 The extent of the duties, responsibilities and limitations of authority of the Architect as the Owner's representative during construction shall not be modified or extended without written consent of the Owner, the Contractor and the Architect.

1.6 PROJECT REPRESENTATION BEYOND BASIC SERVICES

1.6.1 If the Owner and Architect agree that more extensive representation at the site than is described in Paragraph 1.5 shall be provided, the Architect shall provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

1.6.2 Such Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as mutually agreed between the Owner and the Architect as set forth in an exhibit appended to this Agreement, which shall describe the duties, responsibilities and limitations of authority of such Project Representatives.

1.6.3 Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described in Paragraph 1.5.

1.7 ADDITIONAL SERVICES

The following Services are not included in Basic Services unless so identified in Article 15. They shall be provided if authorized or confirmed in writing by the Owner, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services.

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1.7.1 Providing analyses of the Owner's needs, and programming the requirements of the Project.

1.7.2 Providing financial feasibility or other special studies.

1.7.3 Providing planning surveys, site evaluations, environmental studies or comparative studies of prospective sites, and preparing special surveys, studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

1.7.4 Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase.

1.7.5 Providing services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

1.7.6 Preparing documents of alternate, separate or sequential bids or providing extra services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase, when requested by the Owner.

1.7.7 Providing coordination of Work performed by separate contractors or by the Owner's own forces.

1.7.8 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

1.7.9 Providing Detailed Estimates of Construction Cost, analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor.

1.7.10 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

1.7.11 Providing services for planning tenant or rental spaces.

1.7.12 Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or are due to other causes not solely within the control of the Architect.

1.7.13 Preparing Drawings, Specifications and supporting data and providing other services in connection with Change Orders to the extent that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not commensurate with the services required of the Architect, provided such Change Orders are required by causes not solely within the control of the Architect.

1.7.14 Making investigations, surveys, valuations, inventories or detailed appraisals of existing facilities, and services required in connection with construction performed by the Owner.

1.7.15 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.

1.7.16 Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

1.7.17 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

1.7.18 Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

1.7.19 Providing services after issuance to the Owner of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than sixty days after the Date of Substantial Completion of the Work.

1.7.20 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

1.7.21 Providing services of consultants for other than the normal architectural, structural, mechanical and electrical engineering services for the Project.

1.7.22 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

1.8 TIME

1.8.1 The Architect shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which shall be adjusted as required as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and approval of submissions and for approvals of authorities having jurisdiction over the Project. This schedule, when approved by the Owner, shall not, except for reasonable cause, be exceeded by the Architect.

ARTICLE 2

THE OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information regarding requirements for the Project including a program, which shall set forth the Owner's design objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, special equipment and systems and site requirements.

2.2 If the Owner provides a budget for the Project it shall include contingencies for bidding, changes in the Work during construction, and other costs which are the responsibility of the Owner, including those described in this Article 2 and in Subparagraph 3.1.2. The Owner shall, at the request of the Architect, provide a statement of funds available for the Project and their source.

2.3 The Owner shall designate, when necessary, a representative authorized to act in the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine the documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's services.

2.4 The Owner shall furnish a legal description and a certified land survey of the site, giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.

2.5 The Owner shall furnish the services of soil engineers or other consultants when such services are deemed necessary by the Architect. Such services shall include test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests, including necessary operations for determining subsoil, air and water conditions, with reports and appropriate professional recommendations.

2.6 The Owner shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.

2.7 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor uses the moneys paid by or on behalf of the Owner.

2.8 The services, information, surveys and reports required by Paragraphs 2.4 through 2.7 inclusive shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

2.9 If the Owner observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the Owner to the Architect.

2.10 The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.

ARTICLE 3

CONSTRUCTION COST

3.1 DEFINITION

3.1.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

3.1.2 The Construction Cost shall include at current market rates, including a reasonable allowance for overhead and profit, the cost of labor and materials furnished by the Owner and any equipment which has been designed, specified, selected or specially provided for by the Architect.

3.1.3 Construction Cost does not include the compensation of the Architect and the Architect's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Article 2.

3.2 RESPONSIBILITY FOR CONSTRUCTION COST

3.2.1 Evaluations of the Owner's Project budget, Statements of Probable Construction Cost and Detailed Estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established or approved by the Owner, if any, or from any Statement of Probable Construction Cost or other cost estimate or evaluation prepared by the Architect.

3.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget under Subparagraph 1.1.2 or Paragraph 2.2 or otherwise, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Any such fixed limit shall be increased in the amount of any increase in the Contract Sum occurring after execution of the Contract for Construction.

3.2.3 If the Bidding or Negotiation Phase has not commenced within three months after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

3.2.4 If a Project budget or fixed limit of Construction Cost (adjusted as provided in Subparagraph 3.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall (1) give written approval of an increase in such fixed limit, (2) authorize rebidding or renegotiating of the Project within a reasonable time, (3) if the Project is abandoned, terminate in accordance with Paragraph 10.2, or (4) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (4), provided a fixed limit of Construction Cost has been established as a condition of this Agreement, the Architect, without additional charge, shall modify the Drawings and Specifications as necessary to comply

with the fixed limit. The providing of such service shall be the limit of the Architect's responsibility arising from the establishment of such fixed limit, and having done so, the Architect shall be entitled to compensation for all services performed, in accordance with this Agreement, whether or not the Construction Phase is commenced.

ARTICLE 4

DIRECT PERSONNEL EXPENSE

4.1 Direct Personnel Expense is defined as the direct salaries of all the Architect's personnel engaged on the Project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

ARTICLE 5

REIMBURSABLE EXPENSES

5.1 Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and consultants in the interest of the Project for the expenses listed in the following Subparagraphs:

5.1.1 Expense of transportation in connection with the Project; living expenses in connection with out-of-town travel; long distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project.

5.1.2 Expense of reproductions, postage and handling of Drawings, Specifications and other documents, excluding reproductions for the office use of the Architect and the Architect's consultants.

5.1.3 Expense of data processing and photographic production techniques when used in connection with Additional Services.

5.1.4 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates.

5.1.5 Expense of renderings, models and mock-ups requested by the Owner.

5.1.6 Expense of any additional insurance coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants.

ARTICLE 6

PAYMENTS TO THE ARCHITECT

6.1 PAYMENTS ON ACCOUNT OF BASIC SERVICES

6.1.1 An initial payment as set forth in Paragraph 14.1 is the minimum payment under this Agreement.

6.1.2 Subsequent payments for Basic Services shall be made monthly and shall be in proportion to services performed within each Phase of services, on the basis set forth in Article 14.

6.1.3 If and to the extent that the Contract Time initially established in the Contract for Construction is exceeded or extended through no fault of the Architect, compensation for any Basic Services required for such extended period of Administration of the Construction Contract shall be computed as set forth in Paragraph 14.4 for Additional Services.

6.1.4 When compensation is based on a percentage of Construction Cost, and any portions of the Project are deleted or otherwise not constructed, compensation for such portions of the Project shall be payable to the extent services are performed on such portions, in accordance with the schedule set forth in Subparagraph 14.2.2, based on (1) the lowest bona fide bid or negotiated proposal or, (2) if no such bid or proposal is received, the most recent Statement of Probable Construction Cost or Detailed Estimate of Construction Cost for such portions of the Project.

6.2 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

6.2.1 Payments on account of the Architect's Additional Services as defined in Paragraph 1.7 and for Reimbursable Expenses as defined in Article 5 shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

6.3 PAYMENTS WITHHELD

6.3.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect is held legally liable.

6.4 PROJECT SUSPENSION OR TERMINATION

6.4.1 If the Project is suspended or abandoned in whole or in part for more than three months, the Architect shall be compensated for all services performed prior to receipt of written notice from the Owner of such suspension or abandonment, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 10.4. If the Project is resumed after being suspended for more than three months, the Architect's compensation shall be equitably adjusted.

ARTICLE 7

ARCHITECT'S ACCOUNTING RECORDS

7.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on the basis of generally accepted accounting principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 8

OWNERSHIP AND USE OF DOCUMENTS

8.1 Drawings and Specifications as instruments of service are and shall remain the property of the Architect whether the Project for which they are made is executed or not. The Owner shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the Owner's use and occupancy of the Project. The Drawings and Specifications shall not be used by the Owner on

other projects, for additions to this Project, or for completion of this Project by others provided the Architect is not in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

8.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's rights.

ARTICLE 9

ARBITRATION

9.1 All claims, disputes and other matters in question between the parties to this Agreement, arising out of or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. No arbitration, arising out of or relating to this Agreement, shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the Architect, the Owner, and any other person sought to be joined. Any consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein or with any person not named or described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional person or persons duly consented to by the parties to this Agreement shall be specifically enforceable under the prevailing arbitration law.

9.2 Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

9.3 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 10

TERMINATION OF AGREEMENT

10.1 This Agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

10.2 This Agreement may be terminated by the Owner upon at least seven days' written notice to the Architect in the event that the Project is permanently abandoned.

10.3 In the event of termination not the fault of the Architect, the Architect shall be compensated for all services performed to termination date, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 10.4.

10.4 Termination Expenses include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount computed as a percentage of the total Basic and Additional Compensation earned to the time of termination, as follows:

.1 20 percent if termination occurs during the Schematic Design Phase; or

.2 10 percent if termination occurs during the Design Development Phase; or

.3 5 percent if termination occurs during any subsequent phase.

ARTICLE 11

MISCELLANEOUS PROVISIONS

11.1 Unless otherwise specified, this Agreement shall be governed by the law of the principal place of business of the Architect.

11.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

11.3 As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the relevant Date of Substantial Completion of the Work, and as to any acts or failures to act occurring after the relevant Date of Substantial Completion, not later than the date of issuance of the final Certificate for Payment.

11.4 The Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages covered by any property insurance during construction as set forth in the edition of AIA Document A201, General Conditions, current as of the date of this Agreement. The Owner and the Architect each shall require appropriate similar waivers from their contractors, consultants and agents.

ARTICLE 12

SUCCESSORS AND ASSIGNS

12.1 The Owner and the Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

ARTICLE 13

EXTENT OF AGREEMENT

13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

ARTICLE 14

BASIS OF COMPENSATION

The Owner shall compensate the Architect for the Scope of Services provided, in accordance with Article 6, Payments to the Architect, and the other Terms and Conditions of this Agreement, as follows:

14.1 AN INITIAL PAYMENT of None dollars ($ -0-)

shall be made upon execution of this Agreement and credited to the Owner's account as follows:

14.2 BASIC COMPENSATION

14.2.1 FOR BASIC SERVICES, as described in Paragraphs 1.1 through 1.5, and any other services included in Article 15 as part of Basic Services, Basic Compensation shall be computed as follows:

(Here insert basis of compensation, including fixed amounts, multiples or percentages, and identify Phases to which particular methods of compensation apply, if necessary.)

Basic Compensation shall be based on an hourly rate of thirty-six dollars ($36.00) per hour.

Consultant Services, including Mechanical and Electrical Services, and those provided under subparagraph 1.7.21, shall be a multiple of one and fifteen hundreths (1.15) times the amount billed to the Architect for such services.

Billings shall be on a monthly basis and payments are due upon receipt of invoice.

14.2.2 Where compensation is based on a Stipulated Sum or Percentage of Construction Cost, payments for Basic Services shall be made as provided in Subparagraph 6.1.2, so that Basic Compensation for each Phase shall equal the following percentages of the total Basic Compensation payable:

(Include any additional Phases as appropriate.)

Does not apply.

Schematic Design Phase:	percent (%)
Design Development Phase:	percent (%)
Construction Documents Phase:	percent (%)
Bidding or Negotiation Phase:	percent (%)
Construction Phase:	percent (%)

14.3 FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 1.6, Compensation shall be computed separately in accordance with Subparagraph 1.6.2.

14.4 COMPENSATION FOR ADDITIONAL SERVICES

14.4.1 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Paragraph 1.7, and any other services included in Article 15 as part of Additional Services, but excluding Additional Services of consultants, Compensation shall be computed as follows:

(Here insert basis of compensation, including rates and/or multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)

At an hourly rate of thirty-six dollars ($36.00) per hour.

14.4.2 FOR ADDITIONAL SERVICES OF CONSULTANTS, including additional structural, mechanical and electrical engineering services and those provided under Subparagraph 1.7.21 or identified in Article 15 as part of Additional Services, a multiple of one and fifteen hundreths (1.15) times the amounts billed to the Architect for such services.

(Identify specific types of consultants in Article 15, if required.)

14.5 FOR REIMBURSABLE EXPENSES, as described in Article 5, and any other items included in Article 15 as Reimbursable Expenses, a multiple of one and ten hundreths (1.10) times the amounts expended by the Architect, the Architect's employees and consultants in the interest of the Project.

14.6 Payments due the Architect and unpaid under this Agreement shall bear interest from the date payment is due at the rate entered below, or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

(Here insert any rate of interest agreed upon.)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletion, modification, or other requirements such as written disclosures or waivers.)

14.7 The Owner and the Architect agree in accordance with the Terms and Conditions of this Agreement that:

14.7.1 IF THE SCOPE of the Project or of the Architect's Services is changed materially, the amounts of compensation shall be equitably adjusted.

14.7.2 IF THE SERVICES covered by this Agreement have not been completed within twelve (12) months of the date hereof, through no fault of the Architect, the amounts of compensation, rates and multiples set forth herein shall be equitably adjusted.

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ARTICLE 15

OTHER CONDITIONS OR SERVICES

We hereby agree that the total cost of the Basic Services as described in Paragraphs 1.3 through 1.5 shall not exceed the sum of Twelve Thousand and Twenty dollars ($12,020.00).

For the execution of this agreement, the work shall proceed in stages only with written authorization from the Owner to proceed. The work shall be divided into phases with the respective maximum costs as follows:

Construction Document Phase	$ 7,825.00
Bidding Phase	1,055.00
Construction Phase	3,140.00
Total Basic Services	$12,020.00

This Agreement entered into as of the day and year first written above.

OWNER
Board of Public Works

City of Fort Wayne

BY _____
Thomas W. Latchem

BY _____
Roberta Anderson Staten

BY _____
Betty R. Collins
10/14/81

ARCHITECT
Moake Sheldon Kratzat & Associates, Inc.

BY _____
Allen C. Sheldon, Jr., President

BY _____
Richard E. Moake, Secretary

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S-81-10-41

TITLE OF ORDINANCE AGREEMENT BETWEEN THE CITY OF FORT WAYNE AND ARCHITECT FOR RENOVATION AND ADDITIONS TO SEWER MAINTENANCE FACILITY ON WALLAC

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE AGREEMENT BETWEEN THE CITY OF FORT WAYNE (OWNER) AND THE ARCHITECT (MOAKE SHELDON KRATZAT & ASSOCIATES, INC.) FOR THE RENOVATION AND ADDITION TO THE EXISTING SEWER MAINTENANCE FACILITY LOCATED at 445 EAST WALLACE STREET, FORT WAYNE, INDIANA.

EFFECT OF PASSAGE RENOVATION AND ADDITION TO THE SEWER MAINTENANCE FACILITY ON WALLACE STREET.

EFFECT OF NON-PASSAGE THE ABOVE DESCRIBED SEWER MAINTENANCE FACILITY WILL NOT BE CHANGED.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) $7,825.00 CONSTRUCTION DOCUMENT PHASE, $1,055.00, CONSTRUCTION PHASE $3,140.00 - TOTAL WILL NOT EXCEED $12,020.0 TO BE PAID FOR BY CITY UTILITIES.

ASSIGNED TO COMMITTEE

sa